

**Minutes of the
Tobacco Education and Research Oversight Committee (TEROC)
Thursday, December 18, 2014**

Holiday Inn Hotel & Suites Oakland Airport
Richmond Conference Room
77 Hegenberger Road
Oakland, CA 94621

Alternate Location:
San Diego Black Health Associates
Large Conference Room
5275 Market Street, Suite C-23
San Diego, CA 92114

MEMBERS PRESENT:

Ms. Denise Adams-Simms (attending from San Diego location), Dr. Lourdes Baézconde-Garbanati, Dr. Alan Henderson (Vice Chair), Dr. Pamela Ling, Dr. Michael Ong (Chair), Mr. Myron Dean Quon, Ms. Pat S. Etem

MEMBERS ABSENT:

Dr. Wendel Brunner

OTHERS IN ATTENDANCE:

Dr. Bart Aoki, Tobacco-Related Disease Research Program (TRDRP)/ University of California, Office of the President (UCOP)
Lynn Baskett, TEROC Consultant
Elizabeth Cox, Center for Tobacco Control Research and Education (CTCRE)
Tim Gibbs, American Cancer Society (ACS)/Cancer Action Network (CAN)
Margarita Garcia, California Department of Education (CDE)/Coordinated School Health and Safety Office (CSHSO)
Stanton Glantz, CTCRE
Tonia Hagaman, California Tobacco Control Program (CTCP)
Callie Hanft, American Heart Association (AHA)
Dr. Lisa Henrikson, Stanford University
Tom Herman, CDE/CSHSO
Dr. Norval Hickman, TRDRP/UCOP
Elinor Mattern, First 5 Association of California
Carol McGruder, African American Tobacco Control Leadership Council (AATCLC)
Dr. Jonathan Isler, CTCP
Richard Kwong, CTCP
John Lagomarsino, CDE/CSHSO
Elinor Mattern, First 5 Association of California
Dr. Tracy Richmond-McKnight, TRDRP
Sarah Planche, CDE/CSHSO

Valerie Quinn, CTCP
April Roeseler, CTCP
Nadine Roh, CTCP
Alexandria Simpson, CTCP

1. WELCOME, INTRODUCTION, AND OPENING COMMENTS

The TEROC Chair, Dr. Ong, called the meeting to order at 9:45 a.m. TEROC members and guests introduced themselves.

2. TOBACCO CONTROL IN CALIFORNIA, 2007-2014: A RESURGENT TOBACCO INDUSTRY WHILE INFLATION ERODES THE CALIFORNIA TOBACCO CONTROL PROGRAM

Elizabeth Cox presented findings from: Tobacco Control in California, 2007-2014: A Resurgent Tobacco Industry while Inflation Erodes the California Tobacco Control Program on behalf of the University of California, San Francisco - Center for Tobacco Control Research and Education.

Ms. Cox reported findings including California's leadership position in tobacco control being under threat, State leaders not making tobacco control a priority, the weak State media campaign, and progress at the local level. She also discussed additional topics covered in the report, such as: state tobacco control funding and programs, Tobacco Industry campaign contributions and lobbying, State tobacco control policy and politics, State Attorney General Master Settlement Agreement enforcement activity and local tobacco control policy and politics.

Ms. Cox continued by discussing the California Tobacco Control Program (CTCP). Since the passage of Proposition 99 in 1988, CTCP has become a world leader in tobacco control. CTCP's success hinged on the program's boldness and a high level of funding. Tobacco control successes also stemmed from a daring media campaign, local activity grants, tobacco use prevention education, and the tobacco-related research.

Ms. Cox continued by discussing Proposition 99, a voter initiative passed in 1988 to raise the tobacco tax by \$.25. The initiative placed funds in an account which can only be used for treatment, research of tobacco-related diseases, school and community health education programs about tobacco, fire prevention, and environmental conservation and damage restoration programs.

The purchasing power of funds for CTCP was reduced by inflation, as of 2014 it was 53 percent of what it was when voters enacted Proposition 99.

While declining revenues due to declining smoking was anticipated by the people who designed Proposition 99 in the 1980s, they did not anticipate the

problem caused by inflation eroding the purchasing power of the tax dollars that were generated.

Ms. Cox continued the presentation by discussing the diversion of funds to the California Board of Equalization (BOE) to administer the state tobacco licensing program stemming from Assembly Bill 71. In fiscal year 2001, the Board of Equalization was taking .3 percent of Proposition 99 Revenue. By fiscal year 2014, this grew to 3.7 percent, reducing the Health Education Account by \$2 million and the Research Account by \$0.5 million.

Assembly Bill (AB) 71 required retailers to obtain a license to sell tobacco products, but only imposed a onetime fee of \$100 to cover administration. AB 71's onetime fees generate approximately \$1 million annually while the cost of administration is over \$9 million annually. In order to eliminate the diversion of Proposition 99 funds, BOE would need to impose a \$249 annual fee. In addition, to cover funds diverted from Prop 10 and the Breast Cancer Account, total fees would be approximately \$750 annually. However, the report focuses solely on the Proposition 99 funds.

Funds are also being diverted to the California Cancer Registry (CCR). In fiscal year 2007, the CCR absorbed six (6) percent of the Research Account, in fiscal year 20014, it absorbed 40 percent. This is primarily due to inflation.

Ms. Cox continued by discussing State politics and policymaking. In recent years, policymakers declined to take a lead in tobacco control. This is primarily due to tobacco industry campaign contribution and lobbying expenditures. Tobacco industry political expenditures totaled \$67,428,254 between 2007 and 2013.

In addition, State policy still contains significant loopholes, such as continuing to allow smoking in break rooms, hotels, and theatrical productions. Twenty-four other states and the District of Columbia are considered 100 percent smoke-free by the Centers for Disease Control and Prevention (CDC), but California is not among them. Seven tobacco control measures were introduced in 2013, and two passed and were signed by Governor Brown, and two carried over to 2014. One bill that became law in 2013 was AB 352 prohibiting smoking in foster care homes authored by Assemblymember Isadore Hall. The bill was not considered aggressive tobacco control policy by health advocates.

California's cigarette excise tax is \$0.87, while the national average is \$1.34 per pack. California is ranked 33rd in the nation. Between 2007 and 2013, there have been seven legislative attempts to raise the tobacco tax and one statewide initiative with zero success.

A “new” industry has also hit the legislature: electronic cigarettes (e-cigarettes). Although the product may be new, the tactics haven’t changed. Major tobacco manufacturers have purchased the e-cigarettes companies and have marketed and pushed the products in a similar fashion to traditional cigarettes.

An example of this is Senate Bill 648 introduced by Senator Ellen Corbett. The bill would have prohibited e-cigarettes in all areas where traditional cigarettes are banned. The bill would also have prohibited advertising of electronic cigarettes in government buildings. The Bill was not backed by voluntary organizations and was revamped in the Government Organizational Committee where it redefined e-cigarettes as separate from tobacco products. Senator Corbett accepted the amendments and the bill failed.

Tobacco control also has lacked support from the last two Attorneys General, Jerry Brown and Kamala Harris.

Ms. Cox continued by noting the robust local efforts in local tobacco control from 2007 - 2014:

- 37 localities restricted smoking in multiunit housing.
- 31 localities included e-cigarettes in their clean indoor air laws.
- 15 localities included e-cigarettes in local retail licensing legislation.
- 14 strong local tobacco retail licensing ordinances.

Ms. Cox concluded her presentation by reiterating the issues outlined in the report, including reduction in purchasing power of CTCP, lack of aggressive media messaging, diversion of funds, resurging tobacco industry, lack of priority from state leaders, emerging new product industry (e-cigarettes), and the significant strides made by local tobacco control.

TEROC Members and Dr. Glantz continued by discussing the dissemination of the report as well as local efforts to implement e-cigarette policy. Locals, including Los Angeles, may have been better supported against the aggressive tobacco industry if voluntary and other health organizations had stepped-up during critical times of policy implementation.

Dr. Baezconde-Garbanati asked which strategies are recommended to make changes and turn the tables on the tobacco industry. Ms. Cox noted that media campaigns focusing on how the tobacco industry influences legislators would be helpful. Ms. Cox also observed that although they didn’t play an active role in the beginning, ACS- Cancer Action Network (CAN) is currently playing a more assertive role in the fight against e-cigarettes.

Ms. Etem thanked Ms. Cox for remarking that the health voluntary agencies had a delayed response in the fight against e-cigarettes and not necessarily the local health organizations.

Dr. Ong and Dr. Glantz commented that the scientific community was also unhelpful and sending mixed messages regarding e-cigarettes. Dr. Glantz suggested a media campaign providing information to the public regarding e-cigarettes.

Discussion ensued regarding the BOE. Dr. Ling questioned the process regarding tobacco licensing relating to Proposition 99. She wanted clarification regarding what the \$249 fee would entail. Ms. Cox clarified that the fee would need to be implemented annually in order to cover the Proposition 99 costs.

TEROC members and Dr. Glantz discussed taxing e-cigarettes in the same manner conventional cigarettes are taxed.

Discussion continued regarding dissemination of the report. Dr. Ong suggested a potential promotion collaboration when the Master Plan goes out in late January or early February, 2015.

Dr. Ong thanked Ms. Cox for her presentation.

3. APPROVAL OF MINUTES, CORRESPONDENCE, AND ANNOUNCEMENTS

Approval of the September 30, 2014 and October 23, 2014 meeting minutes moved by Dr. Henderson, seconded by Dr. Ling; motion passed unanimously.

Approval of the October 23, 2014 Meeting minutes with amendments moved by Dr. Henderson, seconded by Dr. Ling; motion passed unanimously.

The chair reviewed TEROC-related correspondence:

Incoming Correspondence:

- Senate Rules Committee resolution presented to Dr. Dorothy Rice in honor of her time spent on TEROC.

Outgoing Correspondence:

- TEROC letter to the United States Department of Health and Human Services regarding a solicitation for written comments for the Healthy People 2020's new proposed tobacco objective, TU21.1, which seeks to increase the number of states requiring high-tech tax stamps on packs of cigarettes.
- TEROC letter to April Roeseler, Branch Chief of the California Tobacco Control Program (CTCP), supporting CTCP's application in response to the Centers for Disease Control and Prevention (CDC) RFA-DP15-1509, entitled: National State-Based Tobacco Control Programs.

4. **ENVIRONMENTAL UPDATE**

TEROC discussed tobacco control issues in the media, including the following news articles and reports:

- **Head of California’s public health department to step down**
<http://www.latimes.com/local/political/la-me-pc-chapman-public-health-20141204-story.html>
- **California Tobacco tax backers unveil new campaign**
<http://www.sacbee.com/news/politics-government/capitol-alert/article4034009.html>
<http://www.sacbee.com/news/politics-government/dan-walters/article4193529.html>
- **California’s tobacco control efforts losing steam, finds UCSF report**
<http://www.ucsf.edu/news/2014/10/119726/california%E2%80%99s-tobacco-control-efforts-losing-steam-finds-ucsf-report>
<http://www.escholarship.org/uc/item/4jj1v7tv>
- **House leaders rush to defend e-cigarettes from possible FDA bans**
Legislators call for change to FDA rules proposal on e-cigarettes.
<http://www.usnews.com/news/articles/2014/12/03/house-leaders-rush-to-defend-e-cigarettes-from-possible-fda-bans>
- **FDA Opens a public docket to coincide with e-cigarette workshops**
<http://www.fda.gov/TobaccoProducts/NewsEvents/ucm425404.htm>
http://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/ucm198169.htm?source=govdelivery&utm_medium=email&utm_source=govdelivery
- **Fort Plain child dead after ingesting liquid nicotine**
<http://news10.com/2014/12/10/fort-plain-child-dead-after-ingesting-liquid-nicotine/>
- **Vape is the new selfie: What the 2014 word of the year says about our times**
<http://www.theguardian.com/books/2014/nov/25/vape-this-years-selfie-2014-word-of-the-year>
- **Cigarette company finally bans workers from smoking at their desks**
http://www.huffingtonpost.com/2014/10/22/camel-smoking-ban_n_6030786.html?utm_hp_ref=tw

- **Healdsburg bans tobacco sales to anyone under 21**
<http://www.pressdemocrat.com/news/local/3000429-181/healdsburg-bans-tobacco-sales-to>
- **Shasta County supervisors ban electronic smoking in businesses, county buildings**
<http://www.redding.com/news/local-news/live-tweets-shasta-county-supervisors-meet-dec-2>
- **Santa Clara County bans sale of flavored tobacco products often marketed towards young people**
<http://sanfrancisco.cbslocal.com/2014/11/06/santa-clara-county-bans-sale-of-flavored-tobacco-products-often-marketed-towards-young-people/>

5. **VOLUNTARY HEALTH AGENCY UPDATE**

Callie Hanft of the American Heart Association (AHA) and Tim Gibbs of the American Cancer Society (ACS) presented on behalf of the voluntary health agencies.

Mr. Gibbs and Ms. Hanft provided an anticipated overview of the coming legislative year.

Mr. Gibbs discussed the newly announced chairs of the Senate and Assembly Governmental Oversight (GO) Committees. Isadore Hall was named the chair of the Senate GO Committee and Adam Gray was named as the chair of the Assembly GO Committee. Isadore Hall and Adam Gray are on record as having accepted more money from the tobacco industry than any other legislators since the ACS-CAN launched the *Snuff Tobacco Money out of California Politics* campaign in July of 2014. This campaign challenges legislators to “just say no” to Big Tobacco money and expose legislators who accept tobacco funds.

On November 20, 2014, *Save Lives California* launched a coalition with members including the California Medical Association (CMA), ACS, American Lung Association (ALA), AHA, and Service Employees International Union (SEIU) California to generate support for increasing the California tobacco tax by \$2-per-pack by the end of 2016 in order to save lives and lower the cost of providing medical care to smokers. Plans include movement for both a legislative and ballot initiative.

Ms. Hanft discussed upcoming legislation:

- E-cigarette bill authored by Senator Mark Leno. The bill would strike the current definition of e-cigarettes in the Health and Safety Code and apply e-cigarettes to tobacco products.
- “Tobacco to 21” bill is currently in the initial phases of development.

- Comprehensive cessation Medi-Cal coverage authored by Senator Chris Holden. The bill would apply to both fee-for-service and managed care patients.
- The BOE diversion of funds will potentially be addressed as a trailer bill.
- E-cigarettes bill authored by Senator Isadore Hall. The bill primarily deals with child-resistant packaging and would define e-cigarettes differently than other tobacco products.
- Non-nicotine e-cigarettes bill which would protect children from being able to purchase e-cigarettes.

Dr. Ong, Dr. Henderson and Mr. Gibbs discussed interest in addressing e-cigarettes into the *Save Lives California* campaign. The topic is currently being discussed.

Dr. Ong questioned what the “Plan B” would be if cigarettes could not be redefined in the Health and Safety Code to include e-cigarettes. Ms. Hanft responded that if cigarettes cannot be redefined to clearly incorporate e-cigarettes, then the voluntary health agencies have alternative language to clearly define e-cigarettes separately.

Discussion continued regarding the difference of definitions between the Health and Safety Code and the definition for the purposes of taxation. Ms. Hanft clarified that they would not be attempting to change the definition for taxation purposes. Dr. Glantz suggested making sure the definition includes any device that is capable of distributing nicotine.

Ms. Baezconde-Garbanati questioned whether AHA or ALA would be implementing programs similar to ACS in exposing legislators who accept tobacco dollars. Ms. Hanft stated that AHA was not able to perform these activities based on their status designation under the IRS. Ms. Etem asked how nicotine replacement therapy (NRT) is encompassed. Dr. Glantz suggested adding language regarding the exclusion of products approved by the FDA for NRT.

Dr. Ong inquired as to the best sequencing strategy regarding the releases of the Master Plan along with other critical documents, such as the *Cost of Smoking* and *Tobacco Control in California*. What would be the most helpful strategy in saturating the market for stakeholders and legislators? Mr. Gibbs noted that the beginning of the year release of the Master Plan and the other critical documents are very timely because of the new legislation being introduced.

Dr. Glantz noted that putting pressure on the Attorney General’s office (AGO) to bring false advertising claims against e-cigarette companies for implying e-cigarettes are cessation devices. In addition, the “smoke-anywhere” claim

should be noted as well. E-Cigarettes are now included in many local clean indoor air laws and to claim that they can be smoked anywhere is false.

Dr. Glantz noted that there is a very good case to be made that e-cigarettes are covered under the Master Settlement Agreement (MSA) because most e-liquid is currently derived from Tobacco. Ms. Roeseler continued discussion by noting the reluctance of the AGO to enforce e-cigarettes under the MSA.

Ms. Etem questioned the timeline regarding submission of solutions for the BOE diversion of funds. Ms. Hanft replied that information was to be submitted to the legislature by April 15, 2015.

The Chair thanked Ms. Hanft and Mr. Gibbs for the update.

**6. UNIVERSITY OF CALIFORNIA OFFICE OF THE PRESIDENT
TOBACCO RELATED DISEASE RESEARCH PROGRAM REPORT**

Drs. Bart Aoki, Norval Hickman, and Tracy McKnight presented on behalf of TRDRP.

The Vice-Chair welcomed Drs. Aoki, Hickman, and McKnight.

Dr. Aoki introduced Dr. McKnight, the newest Program Officer at the TRDRP. Dr. McKnight introduced herself.

The TRDRP Cycle 24 Call for Applications was released on July 1, 2014 and 179 Letters of Intent (LOI) were received on September 12, 2014. The full applications were due on December 1, 2014. TRDRP received 134 applications including: 31 for career development, 48 for exploratory research, 49 for full research projects, and six for community-academic research. There is a current trend in the increase of grant applications regarding e-cigarettes.

As part of the ongoing planning for the release of new research priorities and grant types on July 1, 2015, the SAC met on December 4, 2014. They decided to update granting strategies and priorities due to:

- Tobacco industry undergoing a disruptive innovation; particularly regarding e-cigarettes and other electronic nicotine delivery systems (ENDS).
- Consequent need for new directions in research, new regulatory and policy approaches, and new tobacco control efforts.
- Changing research funding environment including declining Proposition 99 revenue, increase in FDA funding for research into new products and “regulatory science”, and decreased availability of National Institute of Health (NIH) research funding.

Dr. Aoki continued by discussing TRDRP SAC Principles for Granting Priorities and Strategies. The goal was to provide grant funding that will inform California tobacco control policies and programs, support unique areas of research as yet unfunded by other sources, leverage additional research funding, support the early careers of investigators in tobacco-related research, strengthen community involvement in tobacco control research, advance knowledge to reduce tobacco-related disparities, and strategically target resources in concert with other funders.

TEROC members, including Ms. Etem and Dr. Baezconde-Garbanati were particularly interested in career development grantees and the inclusion of minority and vulnerable population investigators.

In addition, TRDRP is looking at internal data including application trends, recent grant investments, and grant performance relating to career development grantee surveys. TRDRP is also reviewing external data including funder priorities and strategies, the new TERO Master Plan, and Interviews with other consumers of TRDRP research.

Dr. Aoki discussed the initial proposals of focus in 2015-2020:

- Training and Career Development
- Innovative Exploratory and Pilot Studies
- Strategic Research Initiatives

Dr. McKnight presented information regarding the press release of the *Cost of Smoking in California* report. The TRDRP, in partnership with the Los Angeles County Tobacco Control and Prevention Program, organized a press conference in Los Angeles, CA on October 15, 2014 to announce the findings recently completed by Drs. Wendy Max and Hai-yen Sung of the University of California, San Francisco. This is the third in a series of reports from this group that documents the county-by-county and statewide costs incurred from smoking tobacco products. The media coverage was statewide and very extensive including New America Media, a national ethnic news outlet. New America Media has also proposed a collaboration to promote tobacco control.

Dr. Aoki briefly described the E-Cigarette Tax Policy Meeting, which will be hosted by TRDRP and held on January 22, 2015 in Oakland, CA. The purpose of the meeting is to facilitate a discussion among key tobacco control stakeholders in California about the issues surrounding the regulation and taxation of e-cigarettes. The meeting will review the current status of e-cigarette taxation legislation, domestically and internationally. TRDRP also presented a draft agenda for the meeting.

Dr. Baezconde-Garbanati and TRDRP discussed getting more information and potentially collaborating on the *Tobacco in Journalism and Media* project at University of Southern California.

The Vice Chair thanked Dr. Aoki, Dr. Hickman, and Dr. Gardiner for the presentation.

7. CALIFORNIA DEPARTMENT OF PUBLIC HEALTH, CALIFORNIA TOBACCO CONTROL PROGRAM REPORT

April Roeseler presented the CTCP update.

Ms. Roeseler commended TEROCC for their work on the 2015-2017 TEROCC Master Plan. She also introduced Ms. Hagaman as the new Chief of the Community and Statewide Interventions Section. Ms. Hagaman has an extensive history in tobacco control. In addition, Ms. Roeseler announced that Dr. Isler would be leaving CTCP to join CDE. CTCP will begin recruitment for Dr. Isler's position as the Chief of the Evaluation and Knowledge Management Section.

Ms. Roeseler discussed the completion of the Stanford Prevention Research Center (SPRC) data collection for the 2014 CTAS. Ms. Roeseler revealed that when the survey was completed two years ago only 46 percent of tobacco retailers were selling e-cigarette products and the new data has revealed 67 percent are now selling e-cigarettes.

Ms. Roeseler also mentioned Dr. Isler's work on the launching of the California Department of Public Health (CDPH) Open Data Portal to share health information with the public in August, 2014.

On November 13, 2014, CTCP released a Request for Applications (RFA) 15-100: Achieving Tobacco-Related Health Equity Among California's Diverse Populations. This RFA will fund approximately 26 to 50 grants. Applications are due Thursday, January 15, 2015 with a July 1, 2015 start date.

On Thursday, November 13, 2014, CTCP hosted a webinar regarding e-cigarettes: *Know Your Audience; Make an Impact*, on the findings of market testing research and recent focus groups, including information about e-cigarette beliefs, knowledge and attitudes, and how to make an impact with messages. Approximately 70 groups attended the webinar.

CTCP collaborated with TRDRP on the release of the third decennial Cost of Smoking report. CTCP helped prepare press materials for the local health departments and partners to help craft relevant, local narratives on the cost of smoking in their communities.

ChangeLab Solutions hosted a webinar on Thursday, November 13, 2014, to introduce a new Tobacco Retail License (TRL) Fee Calculator. The calculator helps jurisdictions calculate an appropriate fee. Presenters also provided an

overview of TRL fees and how these fees can support TRL implementation and enforcement.

CTCP completed the second annual Tobacco and Its Impact in My Community photo contest. The contest launched on September 2, 2014 and ended on October 31, 2014. The photo contest was sponsored by Sutter Express Care. The activity involved a photo contest to collect images that “tell the story” of tobacco control issues that significantly impact youth and disadvantaged communities and some of the images will be used in the 2015-2017 TERO C Master Plan.

Ms. Hagaman provided information regarding a fact sheet created by ChangeLab Solutions, *Local Strategies to Regulate Vape Shops & Lounges*. The fact sheet was created to advise local jurisdictions interested in regulating vape shops. The policy options described allow communities to regulate whether and where vape shops are allowed to open, what products they are able to sell, and how they are able to use and sell such products.

Ms. Etem asked whether or not CTCP’s webinars are accessible for individuals in need of training at later times. Ms. Roeseler announced that the trainings are posted on the *Partners* website and are available upon request.

Discussion ensued regarding *Quit4baby*, a program where pregnant women receive interactive text messages to help them quit.

TEROC members and CTCP discussed allocation dollars that were allowed to rollover into the next fiscal year. Ms. Roeseler explained that the dollars were likely from salary savings from vacant positions.

Store data was collected and key informant interviews were completed for the Healthy Stores for a Healthy Community Campaign (HSHC). Areas of focus for locals are TRL, density, e-cigarettes and content neutral advertising policies on storefronts. TERO C members and Ms. Roeseler continued by acknowledging the success of local projects. In addition, representatives from the Nutrition Branch, Alcohol Prevention Branch, and Ms. Hagaman from CTCP presented to CDPH’s Public Health Executive Management Team. The presentation was well received and individuals from the Sexually Transmitted Disease (STD) Branch reached out to potentially collaborate.

Discussion ensued regarding the departure of Dr. Ronald Chapman, CDPH Director. Dr. Ling asked how the departure would affect CTCP. There is definite concern regarding the future of tobacco control.

Dr. Ong thanked Dr. Isler for his time with CTCP.

Action Item

Dr. Ong moved to provide a certificate of appreciation to Dr. Isler for his work with CTCP. Dr. Baezconde-Garbanati seconded the motion; the motion passed unanimously.

The Chair thanked Ms. Roeseler for her presentation.

8. CALIFORNIA DEPARTMENT OF EDUCATION REPORT

Tom Herman, John Lagomarsino, and Sarah Planche presented on behalf of the California Department of Education (CDE)/ Coordinated School Health and Safety Office (CSHSO).

Mr. Herman introduced Sarah Planche as CDE's newest operative.

The CSHSO will convene an Advisory Work Group on March 10, 2015 in Sacramento. The purpose of the work group is to seek input regarding the CSHSO's Tobacco-Use Prevention Education program. Topics will include, but will not be limited to, discussions on the background of the TUPE Program including Fiscal History, Current Program Alignment, Health and Safety Code provisions, and the TEROc Master Plan. The CSHSO will elicit recommendations regarding possible changes to the current competitive grant structure that will address rural and small school populations, disparities among priority populations, and other priority topics for consideration by the CSHSO to reduce tobacco prevalence among school-age youth. The work group is composed of county offices of education encompassing small, medium, large populations and representatives from public health, TEROc, evaluation, research, and youth advocacy agencies.

CDE and CSHSO participated in the CTCP "Tobacco and its Impact on my Community" photo contest. Notifications regarding the contest were sent multiple times to county TUPE coordinators for distribution to school districts and schools. Staff also participated in the selection process for determining the winners.

CDE has been meeting regularly with CTCP and TRDRP to plan the 2015 Joint Conference. The Memorandum of Understanding has been signed by the CDE. The venue is secured at the Sheraton in Sacramento, CA. The group is working on relevant and interesting titles for the conference.

Sarah Planche, School Health Education Consultant for the CSHSO, has joined the TRDRP Scientific Advisory Committee (SAC) and subcommittee.

Sarah Planche agreed to be a member of the CDPH Comprehensive Cancer tobacco prevention subcommittee. One of cancer control's objectives is to decrease youth tobacco use.

For 2014-15, the CSHSO reports 849 of 1,790 local educational agencies (LEAs) in California are certified as meeting the Tobacco-Free requirements under Health and Safety Code (47 percent). The number of direct-funded charter schools certified as tobacco-free is fairly unchanged from the previous year showing an increase of one additional school certified (5 percent). On a positive note, the number of school districts that have tobacco-free policies increased by 56 districts (79 percent total).

Many school districts and county offices of education have revised tobacco-free policies in the past year to include a prohibition on electronic nicotine delivery devices and other aerosol emitting devices. As of October 30, 2014, the CSHSO has documented 124 agencies that have made these revisions. County offices of Education TUPE Coordinators report that many other LEAs are considering similar changes. As many agencies are renewing their tobacco-free certification status next year, the number of LEAs that do not allow the use of e-cigarettes is anticipated to increase greatly.

The CSHSO instituted a change to the California Healthy Kids Survey in 2013 by inserting questions that asks students about their use of e-cigarettes and other aerosol emitting devices. The data from these questions will serve as the CDE's baseline for monitoring the use of e-cigarettes among school age youth.

Dr. Ling led discussion regarding this data. The data will be broken down for locals. WestEd will soon publish data regarding e-cigarette usage.

The CSHSO conducted a readers' conference on December 8-10, 2014 to review and score the applications submitted in response to the Cohort K Tier 1 Request for Applications. A total of 13 applications were received with 12 of the applications advancing to the readers' conference. The sole applicant not read or scored was determined to meet the criteria to have the previous grant provided under Cohort H funding cycle renewed for an additional three years. All 12 reviewed applications achieved the minimum score of 70 points to be awarded a grant. The Cohort K grants will begin July 1, 2015 and end June 30, 2018. Further information regarding the grant award amounts and the identity of the grantees will be provided at a future meeting following the approval of the intent to award by the Director of the Student Support and Special Services Branch.

In response to the letter from 21 County Office of Education Superintendents which was provided to TEROc at the September meeting, the CSHSO instituted changes to Cohort K Tier 2 RFA. These changes are as follows:

- Applicant agencies will not be allowed to participate in the reading and scoring process, in any manner, for this Cohort.

- For the Cohort K Application, approximately 10 percent of the available funds will be awarded to rural districts whose applications meet the minimum scoring criteria identified in the competitive process.
- To be eligible for the funding for rural school districts, the applicant must be on the Cohort K Rural Schools List posted on the Web site with the RFA. For consortium applications, all districts contained within the consortium must be on this list.
- Grant awards for rural school districts will be subject to the same rules and requirements of the other school districts, as set forth in the application. Regardless of their school classification, each application will be reviewed and scored against a common standard comprised of the scoring rubric and the RFA.

CDE made changes that will take into consideration low socioeconomic status. This will be accomplished through the awarding of additional points above the score assigned by the reviewers to applicants meeting the minimum scoring requirement as follows:

- The CDE may award an additional five points for agencies for which, in the majority of school sites identified in the application, the percentage of students who are eligible to participate in the Free or Reduced Price Meals (FRPM) Program is greater than 50 percent of the total student population as documented on data reports in Data Quest.
- The CDE may award an additional 10 points for agencies for which, in the majority of school sites identified in the application, the percentage of students who are eligible to participate in the FRPM Program is greater than 75 percent of the total student population as documented on data reports in Data Quest.

Mr. Herman announced that he attended the Governor's Prevention Advisory Council meeting on October 23, 2014 in Sacramento, CA.

Shockingly, R.J. Reynolds (RJR) announced its partnership with the National School Boards Association (NSBA) to promote RJR's new "Right Decisions Right Now" youth smoking prevention program. RJR's press release proudly announces that its curriculum is "aligned with the Common Core Standards." CSHSO contacted the California School Board Association to inform them that this curriculum is funded by the tobacco industry. Within days of this announcement, the NSBA terminated their partnership with RJR. CDE thanked all partners who brought this to their attention and called and wrote letters of protest. Additionally, national and voluntary agencies have contacted the Boys Scouts of America urging them to terminate their relationship with RJR.

Dr. Glantz asked whether or not CDE has contacted Boy Scouts of America regarding their relationship with RJR. CDE has not written a letter and Mr. Herman thought it was an idea that shouldn't be precluded.

Dr. Baezconde-Garbanati directed discussion regarding the Tier 1 and Tier 2 RFA and whether or not there had been any changes to address rural and minority communities and their ability to obtain grants. Mr. Herman reported that awarding additional points on applications to communities with low socioeconomic status is a step in the right direction.

The Chair thanked Mr. Herman, Mr. Lagomarsino and Ms. Planche for the presentation.

9. CALIFORNIA STATE BOARD OF EQUALIZATION STAKEHOLDERS MEETING

The Chair and Elinor Mattern, First 5 Association of California led the discussion regarding the California State Board of Equalization (BOE)'s stakeholders meeting that was held on November 13, 2014 to discuss the Supplemental Report of the 2014-15 Budget Package, Item 0860-001-0011. The supplemental report required the BOE to submit a report to the State Legislature, by April 1, 2015, describing at least three alternatives for future funding of the California Cigarette and Tobacco Products Licensing Act of 2003 (Tobacco Licensing Act). Increasing the share of costs covered by licensing fees and the General Fund are required to be included as alternatives in the report.

At the BOE Stakeholder Meeting, Dr. Ong informed attendees and BOE, that TEROC did not have an opportunity to consider the invitation to provide suggestions by December 1, 2014 regarding alternative funding for the Tobacco Licensing Act due to public meeting requirements. However, he informed BOE that TEROC would be submitting a letter after the January 28, 2015 TEROC Meeting.

Dr. Ong presented the sign-in sheet from the BOE meeting which showed that allies of the tobacco industry attended the meeting.

When Assembly Bill (AB) 71 enacted the Tobacco Licensing Act, it failed to provide ongoing revenue sufficient to sustain the administration of the licensing program and conduct enforcement operations. The August 20, 2003 Senate Health and Human Services Committee analysis of AB 71 noted that the bill failed to provide a fee structure that would fully fund the program after the first few years.

Beginning in Fiscal Year 2006-07, funds were diverted from voter-enacted public health programs established by Proposition 99 and Proposition 10 and the legislatively established Breast Cancer fund, to address the revenue shortfall resulting from insufficient fee collection from the entities licensed under the Tobacco Licensing Act. The use of Proposition 99 revenues in this way violates the initiative, which only allows amendment with a 4/5 vote of the

Legislature and only for amendments that are consistent with the purpose of Proposition 99 - to reduce tobacco use; pay for the costs of treating tobacco-induced diseases and tobacco-related disease research; and to support conservation projects. Funding AB 71 enforcement with Proposition 99 represents a diversion of funds from reducing smoking and its adverse effects to support a program designed to prevent the illegal sales of cigarettes, which benefits tobacco manufacturers.

Ms. Mattern discussed First 5 Association of California's concerns about the diversion of funds from Prop 10 accounts. TEROC members discussed that the BOE is authorized to collect Proposition 99 funds for tax collection administration. Prior to AB 71 the funding directed the rate for their administration of Prop 99 accounts was approximately 0.3 percent of collections. However, the intent of AB 71 is to prevent the sales of counterfeit cigarettes and to prevent tobacco tax evasion. The licensing program primarily benefits tobacco retailers, which is not consistent with the purpose of Proposition 99.

The TEROC member discussion continued, focusing on the steps needed to terminate the diversion of Proposition 99 funds and to provide restitution particularly to the Proposition 99, Health Education Account given the tremendous benefits the State derives from these programs. Dr. Glantz noted that for every \$1 invested in the California Tobacco Control Program, the return on investment is \$56. In particular, every additional dollar of cumulative per capita tobacco control funding is associated with reductions in smoking prevalence and smoker cigarette consumption among remaining current smokers which are, in turn, followed by reductions in smoking-induced medical costs. Dr. Glantz continued by noting that approximately \$10 million per year is currently being diverted from Proposition 99 accounts to pay for Tobacco Licensing Act administration and enforcement. This diversion has reduced money available to the Proposition 99 Health Education Account by approximately \$2 million, decreasing the effectiveness of the California Tobacco Control Program and contributing to an estimated increase in California medical costs of approximately \$13.7 million per year.

Dr. Henriksen and Dr. Glantz led the discussion regarding the benefits of implementing a license funding mechanism requiring an annual fee that would adequately sustain the administration and enforcement of the Tobacco Licensing Act, indexed to inflation. The annual license fee to cover the Proposition 99 diversions alone would require approximately \$248 per year. Of the 38 states that require tobacco retail licensing, California is the only state that collects a one-time fee. Averaged over five years, 19 states and the District of Columbia have higher tobacco retail licensing fees than California.

Dr. Henriksen, TEROC members, and attendees continued the discussion by suggesting additional recommendations for the BOE, including:

- Ensuring current provisions specify that the Tobacco Licensing Act does not preempt any local tobacco control law (other than those related to the collection of taxes) should remain in place regardless of any amendment to the Tobacco Licensing Act. Beginning prior to the passage of the Tobacco License Act in 2003, local tobacco retailer licensing laws have been used to protect children by holding tobacco retailers accountable for the illegal sale of tobacco products to minors.
- Expanding the requirement for tobacco license fee to cover all tobacco products, including electronic cigarettes (e-cigarettes). This is consistent with the treatment of e-cigarettes by United States Food and Drug Administration (FDA), which considers them tobacco products and in April 2014 issued a proposed deeming rule to regulate e-cigarettes as such.
- Implementing retail license fees based on the volume of tobacco sales. Doing so would be consistent with California’s licensing of off-sale alcohol, and minimize effects on small retailers.
- Increased license fees for the sale of tobacco products in youth sensitive zones such as within 1,000 feet of schools, parks, day care centers, etc. TEROC strongly endorses all efforts to reduce tobacco use initiation by youth.
- Increased license fees for the sale of tobacco products in pharmacies and stores that contain pharmacies. On October 28, 2014, the California State Board of Pharmacy adopted a policy statement that recognized pharmacies are in the business of improving customer health and therefore recommended that pharmacies eliminate the sale of tobacco products, which are known to cause cancer, heart disease, lung disease and other health problems. Tobacco product sales are already prohibited in pharmacies in San Francisco, and nationally CVS has ended sales of tobacco products in its stores.
- Capping the number of licenses sold based on location and retailer type.

Dr. Isler and Dr. Henriksen led the discussion regarding the place of e-cigarettes. Dr. Ong indicated that it would be an ongoing discussion.

The Chair, Ms. Etem, Dr. Henderson, and Dr. Glantz continued the discussion regarding the BOE’s authorization, or lack of, to utilize Proposition 99 funds. Ms. Etem suggested the letter have very strong language.

Mr. Quon and Mr. Mattern discussed the possibility of restitution.

Action Items

Dr. Henderson moved TEROC create a subcommittee to address ongoing issues regarding BOE and Proposition 99 funds. Dr. Baezconde-Garbanati seconded the motion; motion passed unanimously.

The subcommittee will be made up of Mr. Quon, Dr. Ong, and Dr. Henderson who will serve as an alternate.

Dr. Henderson moved TEROC develop a letter to the BOE regarding diversion of Proposition 99 funds for tobacco licensing. The letter will include a request for restitution, an increase of fees, and specifically address preemption. Ms. Etem seconded the motion; motion passed unanimously.

Dr. Henderson moved TEROC write a letter advising the California Department of Finance (DOF), California State Assembly Committee on Budget, Subcommittee one (1) Health and Human Services, California State Senate Budget and Fiscal Review Committee - Subcommittee three (3) on Health and Human Services, and Governor Edmund G. Brown Jr. to reevaluate the reductions in the Governor's budget. The motion was seconded by Dr. Baezconde-Garbanati; motion carried unanimously.

10. 2015-2017 TEROC MASTER PLAN

Ms. Baskett thanked TEROC and presented tokens of appreciation to the members for their work on the Master Plan.

Dr. Baezconde-Garbanati and Ms. Etem discussed the dissemination strategy created by the Master Plan Subcommittee. Print copies of the Master Plan are expected in late January or early February, 2015. The subcommittee developed a comprehensive plan to widely and effectively distribute the Master Plan:

- TEROC Presentation/Press Opportunities
 - APHA 2015 – Abstract
 - Joint Conference (with TRDRP, CDE, & CTCP)
 - I&E Days 2015
 - Prop 99 Conference Call
- Presentations/Slides
 - Prepared for TEROC Members
- Distribution list
 - Approximately 500 full Master Plans
 - Add medical writers/journalists to distribution list
 - Newspaper editors and media outlets

- Multimedia/social media
 - i. *Save Lives California*
 - ii. *New America*
- Distribution Cover Letters
 - Legislators
 - Local Health Officers
 - Local Lead Agencies
 - Local Education Agencies
 - Priority Populations
 - Tobacco Control Advocates

Ms. Etem presented a preview of the Master Plan to the Los Angeles Coalition on December 10, 2014. Ms. Etem noted that there was a high level of interest and was invited to speak at other coalition meetings as well.

Ms. Roeseler offered to host a presentation during a Project Director's Meeting. TEROC members were amenable.

Action Items

Dr. Ong moved TEROC develop and submit an APHA abstract in February, 2015 for the fall APHA conference. Dr. Henderson seconded the motion; motion passed unanimously.

The Chair thanked the subcommittee for the presentation.

11. PUBLIC COMMENT

Dr. Ong noted that Dr. Lawrence Green has been the liaison between TRDRP-SAC and TEROC. Dr. Green is no longer serving on TEROC; Dr. Aoki will find a temporary liaison.

Ms. McGruder led the discussion regarding potential upcoming ballot initiatives. She reminded the tobacco control community to anticipate an influx of initiatives and to offer support.

Ms. McGruder and Dr. Glantz worked on the soda tax initiative; she noted that TEROC should keep an eye on a potential initiative from "Big Soda".

TEROC extended thanks and appreciation to Ms. Baskett for her work on the Master Plan.

Action Item

Dr. Henderson moved that TEROC present a certificate of appreciation to Dr. Ron Chapman, CDPH, acknowledging his work in tobacco control as a State Health Officer. Ms. Etem seconded the motion; motion passed unanimously.

The Chair moved to adjourn the meeting; motion passed unanimously.

The meeting was adjourned at 4:00 PM.

The next TEROC meeting will take place in Sacramento, CA.